

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAMES MAURICE DUCKETT,  
Plaintiff,

v.

P. GARCIA,  
Defendant.

Case No. 24-cv-00536 BLF (PR)

**ORDER OF DISMISSAL**

Plaintiff, a state prisoner, filed the instant pro se civil rights action pursuant to 42 U.S.C. § 1983 against Correctional Officer P. Garcia for events that occurred at Salinas Valley State Prison (“SVSP”). Dkt. No. 8. Plaintiff has filed a motion for leave to proceed *in forma pauperis*. Dkt. No. 9. Plaintiff is currently at the California Medical Facility. Dkt. No. 6.

Plaintiff filed a previous action in this district against the same Defendant, making the same allegations as in the instant action and seeking damages. The previous action, *Duckett v. Garcia*, Case No. 23-cv-04748 BLF (“*Duckett I*”), was served on Defendant and is pending briefing. *Id.*, Dkt. Nos. 13, 19.

Duplicative or repetitious litigation of virtually identical causes of action is subject to dismissal under 28 U.S.C. § 1915 as malicious. *Bailey v. Johnson*, 846 F.2d 1019, 1021

(5th Cir. 1988). An *in forma pauperis* complaint that merely repeats pending or previously litigated claims may be considered abusive and dismissed under § 1915. *Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); *Bailey*, 846 F.2d at 1021. An *in forma pauperis* complaint repeating the same factual allegations asserted in an earlier case, even if now filed against new defendants, therefore is subject to dismissal as duplicative. *Bailey*, 846 F.2d at 1021; *Van Meter v. Morgan*, 518 F.2d 366, 368 (8th Cir. 1975). “Dismissal of the duplicative lawsuit, more so than the issuance of a stay or the enjoinder of proceedings, promotes judicial economy and the “comprehensive disposition of litigation.” *Adams v. California*, 487 F.3d 684, 692-93 (9th Cir. 2007) (citation omitted), *overruled on other grounds by Taylor v. Sturgell*, 553 U.S. 880, 904 (2008). Here, Plaintiff’s case is duplicative of *Duckett I* because the two suits arise out of the same transactional nucleus of facts, *i.e.*, a cross-gender body search by Defendant P. Garcia on January 9, 2020, in violation of Plaintiff’s civil rights. *Compare* Dkt. No. 8 at 3 with *Duckett I*, Dkt. No. 1 at 4. As this case is duplicative of *Duckett I*, the instant action will be dismissed.


### CONCLUSION

For the foregoing reasons, the complaint is **DISMISSED** as duplicative.

The Clerk shall terminate all pending motions and close the file.

**IT IS SO ORDERED.**

**Dated:** April 29, 2024

  
BETH LABSON FREEMAN  
United States District Judge

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